

## REMARKS

Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request entry of the preliminary amendment and reconsideration of the claims in view of the remarks presented below.

Claim 30 was amended and claim 35 was canceled. Thus, claims 30-34 and 36-47 are pending in the application.

Claims 30-34 and 36-37 were rejected under 35 U.S.C. 102(b) as being anticipated by Ginsburg 5837003. Applicants respectfully traverse these rejections.

Claim 1 was amended to include the limitation " wherein the steps of sensing, determining and monitoring are accomplished at rates of multiple times a second." Ginsburg '003 fails to teach or even suggest sensing, determining and monitoring as set forth in amended claim 30 at rates of multiple times per second. Since neither Ginsburg, nor any of the other art of record disclose each and every element of amended claim 30, Applicants respectfully submit that claim 30, as amended, is novel and not anticipated by any of the art of record and request that the rejection be withdrawn.

Moreover, at the time the claims of the pending application were made, the subject matter of Ginsburg '003 and the claimed inventions of the pending application were owned by Radiant Medical, Inc. Thus, Ginsburg '003 is not a proper reference under 35 USC 103(a), and may not form the basis for a *prima facie* case of obviousness. Accordingly, Applicants submit that amended claim 30, and all of the claims dependent therefrom, are neither anticipated nor rendered obvious by any of the art of record, taken alone or in combination.

For all the reasons set forth above, Applicants respectfully submit that the rejections based on Ginsburg have been overcome for all claims, and request that the rejections be withdrawn and the claims allowed.

### CONCLUSION

Applicant has carefully reviewed the arguments presented in the Office Action and respectfully requests reconsideration of the claims in view of the remarks presented. In light of the above amendments and remarks, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Should the Examiner have any questions concerning the above amendments and arguments, or any suggestions for further amending the claims to obtain allowance, Applicant requests that the Examiner contact Applicants attorney, John Fitzgerald, at 310-242-2667.

Please charge any additional fees payable in connection with this Amendment to our Deposit Account No. 06-2425.

Date: December 21, 2010

Respectfully submitted,

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